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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/585,129	05/31/2000	Scott T. Hughes	K35A0614	3846

26332 7590 09/17/2003

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EXAMINER

BACKER, FIRMIN

ART UNIT PAPER NUMBER

3621

DATE MAILED: 09/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/585,129

Applicant(s)

HUGHES ET AL.

Examiner

Firmin Backer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Response to Request for Reconsideration

This is in response to a request for reconsideration file July 16th, 2003. Claims 1-10 are being reconsidered in this action.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Merriman et al (U.S. PA Pub. No. 2002/0072965 A1) in view of Cottingham (U.S. Patent No. 6,339,761).

3. As per claim 1, Merriman et al teach a method of operating a content delivery system for distributing advertising content (*methods and apparatuses for delivery of advertisements*) to users of personal computers (*users' browser, 16*), (*see fig 1, 2*) comprising collecting (*gathers*) identification data (*information about individual users*) from a network (*network 10*) of personal computers, receiving the advertising content from an advertiser (*see page 2 paragraph 0026*), formatting the advertising content for storage and display in the personal computers (*see page 3 paragraph 0021*), and distributing, using the collected identification data, the formatted advertising content to the personal computers (*see page 2 paragraph 0017, 0018, 0021*).

Merriman et al fail to teach an inventive concept wherein the personal computers are configured

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to periodically receive and store advertising content and display the advertising content while or before bootloading a user selected application environment. However, Cottingham teaches an inventive concept wherein the personal computers are configured to periodically receive and store advertising content and display the advertising content while or before bootloading a user selected application environment (*see column 23 lines 35-43, 7 lines 50-58*). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Merriman et al's inventive concept to include Cottingham's personal computers are configured to periodically receive and store advertising content and display the advertising content while or before bootloading a user selected application environment because this would have allowed advertiser to track consumer response to specific elements of the Web page/application environment as well as to better infer information about the user's interests in an effort to qualify the user prior to presenting subsequent advertising.

4. As per claims 2, 3, Merriman et al teach a method wherein the identification data comprises a unique identifier/internet protocol that is associated with one of the personal computers (*see page 2 paragraph 0018*).

5. As per claim 4, Merriman et al teach a method of receiving preference data from the personal computers; and selecting the advertisement data that is to be distributed, at least in part, based upon the received preferences (*see page 2 paragraph 0017, 0018, 0021*).

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6. As per claim 5, Merriman et al teach a method of associating a fee with data representative of the advertiser, and storing the fee in a storage device (*see page 3 paragraph 0021*).

7. As per claim 6, Merriman et al teach a content delivery system comprising for distributing advertising data (*methods and apparatuses for delivery of advertisements*) to a network of personal computers (*users' browser, 16*), (*see fig 1, 2*) comprising an identification database comprising identification data, wherein the identification data uniquely identifies a computer or a user in the network of personal computers (*information about individual users*) (*see page 2 paragraph 0017, 0018, 0021*), an advertisement database comprising advertising data (*advertising server processes, 19*), a collection module for collecting the identification from the network of personal computers and storing the collection information in the identification database (*see page 2 paragraph 0017, 0018, 0021*), a formatting module for formatting and storing advertisement data in the advertisement database (*see page 3 paragraph 026*), and a control module that distributes the formatted advertising data to the network of personal computers upon the occurrence of one or more events (*see page 2 paragraph 0017, 0018, 0021*). Merriman et al fail to teach an inventive concept wherein the personal computers are configured to periodically receive and store advertising content and display the advertising content while or before bootloading a user selected application environment. However, Cottingham teaches an inventive concept wherein the personal computers are configured to periodically receive and store advertising content and display the advertising content while or before bootloading a user selected application environment (*see column 23 lines 35-43, 7 lines 50-58*). Therefore, it would

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have been obvious to one of ordinary skill in the art at the time the invention was made to modify Merriman et al's inventive concept to include Cottingham's personal computers are configured to periodically receive and store advertising content and display the advertising content while or before bootloading a user selected application environment because this would have allowed advertiser to track consumer response to specific elements of the Web page/application environment as well as to better infer information about the user's interests in an effort to qualify the user prior to presenting subsequent advertising.

8. As per claims 7, 8, Merriman et al teach a content delivery system wherein the identification data comprises a unique identifier/internet protocol that is associated with one of the personal computers (*see page 2 paragraph 0018*).

9. As per claim 9, Merriman et al teach a content delivery system wherein the control module receives preference data from the personal computers, and wherein the control module selects the advertisement data that is to be distributed, at least in part, based upon the received preferences (*see page 2 paragraph 0017, 0018, 0021*).

10. As per claim 10, Merriman et al teach a content delivery system wherein the control module associates a fee with data representative of the advertiser; and wherein the control modules stores the fee in a storage device that is associated with one of the personal computers (*see page 2 paragraph 0026*).

Response to Arguments

11. Applicant's arguments filed July 16th, 2003 have been fully considered but they are not persuasive.

a. Applicant argues that the prior art, Merriman et al taken alone or in combination with Cottingham, fail to teach an inventive concept of collecting identification data of personal computers configured to receive and store content and display advertisement content while or before bootloading a user application users information. Examiner respectfully disagrees with applicant characterization of Merriman et al's inventive concept. Merriman et al teach in paragraph 10 a system and methods wherein information about networks and subnetworks is routinely collected. In addition, information about individual users is also gathered when users select (click on) different advertisements. Also, data is tracked on how often a given advertisement has been displayed, how often a given user has seen a given advertisement, and other information regarding the user and the frequency of the display of the advertisement. Cottingham further teach an inventive concept wherein an advertisement (or advertising) may be communicated to a customer before the communication of a web-page or other information requested by the customer from a content provider. The first-communicated advertisement may be displayed on the computer of the customer for a predetermined period of time before communication of the web-page from the provider to the customer.

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Conclusion

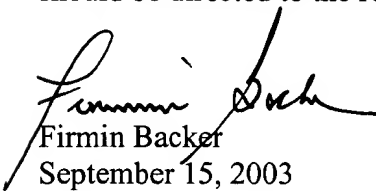
THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Firmin Backer whose telephone number is (703) 305-0624. The examiner can normally be reached on Mon-Thu 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on (703) 305-9768. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.


Firmin Backer
September 15, 2003


JAMES P. TRAMMELL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600